THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 286 of 2006 (M/S)

Ram Prasad S/O Late Chauve Ram,
R/O Tharu Tisarua (Gnagapur) Sitarganj,
District U.S.Nagar.

….. **Petitioner.**

Versus

1. State of Uttaranchal through District Magistrate, U.S. Nagar.
2. Oriental Bank of Commerce through its Manager,
   Branch Sitarganj, District Udham Singh Nagar.
3. Tehsildar Tehsil Sitarganj, Udham Singh Nagar.

.... **Respondents.**

Mr. Tumul Nainwal, Advocate, learned counsel for the petitioner.
Learned Standing Counsel for the respondent no. 1 & 3.
Sri Gaurav Joshi, Adv., learned counsel for the respondent no.2.

Dated March 27, 2006.
PC:
(Hon'ble B.S. Verma, J.)

Heard Sri Tumul Nainwal, learned counsel for the petitioner and Sri Gaurav Joshi, learned counsel for the respondents no.2 as well as learned Standing Counsel for the state.

Earlier, a writ petition was filed, which was registered as Writ Petition 614 (M/S) of 2005, Ram Prasad Vs. State of Uttaranchal and two others, wherein this Court passed an order dated 18.6.2005 to the effect that "respondents are directed not to take any action in pursuance to the recovery certificate dated 3.5.2005 issued by respondent no.3 provided that the petitioner deposits Rs. 50,000/- (Rupees fifty thousand only) with the bank within a period of three months from today and on depositing Rs. Rs. 50,000/- (Rupees fifty thousand only) by the petitioner the respondent no. 2 shall release the tractor in favour of the petitioner. Thereafter, another Rs. 50,000/- (Rupees fifty thousand only) shall be deposited by the petitioner by 31.12.2005. Rest of the balance amount shall be paid by the petitioner in six equal instalments after

interval of every three months. In case of default of payment as provided above, the respondents are free to recover the amount as per law."

In the earlier order, mentioned above, it was a pre-condition in case of default as provided above, the respondents are free to recover the amount as per law and admittedly, the petitioner passed by this Court.

It is a second writ petition challenging the same recovery. In this writ petition the petitioner has stated that he had already deposited amount of Rs. 50,000/- on 7.7.2005 as per order of this Court and earlier also, in the year 2001, the petitioner had paid the amount of Rs. 10,000/- and again on 24.1.2002, he had paid amount of Rs. 50,000/- and thus, he has already deposited in all Rs. 1,10,000/-. An oral statement was made to this effect before this court by the petitioner. The impugned recovery citation/auction proclamation (**Annexure No.3)** is in respect of Rs.2,07,912/-.

In the facts and circumstances of the case, it is directed that if the petitioner deposits the entire amount due under auction proclamation within a period of one month from today, the tractor of the petitioner shall not be sold. The amount, if any, already paid by the petitioner shall be adjusted.

With the above observation, the writ petition is disposed of finally.

A copy of this order be issued to the learned counsel for the petitioner today on payment of usual charges.

(B.S. Verma, J.)

RCP